

NANCY M. JOHNSON, ADMINISTRATRIX OF WALTER R. JOHNSON, AND EMILIE G. JONES, EXECUTRIX OF THOMAS P. JONES, DECEASED.

[To accompany Bills H. R. C. C. 89 and 90.]

DECEMBER 7, 1858.

JANUARY 21, 1859.—Ordered to be printed.

The COURT OF CLAIMS submitted the following

REPORT.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The Court of Claims respectfully presents the following documents as the report in the case of

NANCY M. JOHNSON, ADMINISTRATRIX OF WALTER R. JOHNSON, AND EMILIE G. JONES, EXECUTRIX OF THOMAS P. JONES, DECEASED, *vs.* THE UNITED STATES.

1. The petition of the claimants.
2. Letters testamentary of the claimants, transmitted to the House of Representatives.
3. Evidence in the case, transmitted to the House of Representatives.
4. Opinion of the Court.
5. Bills in favor of each of the claimants.

By order of the Court of Claims.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Washington, this seventh day of December, A. D. 1858.

SAM'L H. HUNTINGTON,
Chief Clerk Court of Claims.

To the honorable the Judges of the Court of Claims:

The petition of Nancy M. Johnson, widow of Walter R. Johnson, deceased, and Emilie G. Jones, executrix and sole devisee of Thomas P. Jones, deceased, respectfully sheweth unto your honors: That the

said Thomas P. Jones and Walter R. Johnson were, together with Charles Reeder, appointed members of a "board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers;" that they were appointed by the Secretary of the Navy in April, 1843, and on the 14th day of that month entered upon the duties assigned to them thereby; that in the prosecution of those duties they continued until the 30th day of March, 1844; that in the letter appointing them they were informed by the Secretary of the Navy that their compensation would be three hundred dollars per month, and that amount was paid to them until the month of August, 1843, when they were informed that the appropriation devoted to such experimental trials was exhausted, and that there was, consequently, no fund out of which they could be paid.

And your petitioners further represent that, deeming the experiments about which they were engaged to be of very great importance, and feeling that if at that time they ceased their labors the time and money already spent by them would be lost to the government, they, with the advice of the Secretary, continued their experiments until completed, on the 30th day of March, 1844; and on the 17th of June of that year, before the close of the session in which the act required that it should be presented, they presented a report to Congress of the experiments made and the results obtained by them.

And your petitioners further show unto your honors that, on the 18th of May, 1844, the House of Representatives passed a resolution requesting the Secretary of the Navy to assign reasons why the board of examiners, &c., had not presented their report, as had been promised should be done during that session; that the Secretary of the Navy, on the 22d of May, 1844, communicated to Congress that the commissioners had been urged, since the commencement of the session, to present their report, &c.; that he believed they had used all diligence in bringing their examinations to a close, &c.; that thus, by both the House of Representatives and the Secretary of the Navy, were the board of examiners recognized after the date when the appropriation was exhausted, as was reported to them; and that, after this date, that is to say, after the 17th of June, 1844, when the examiners made their report to Congress, that report was accepted by Congress, printed, and distributed, as your petitioners have every reason to believe, widely through the country.

And your petitioner, Nancy M. Johnson, respectfully represents that she is the administratrix of the said Walter R. Johnson, and as such possessed of the rights of the said Walter R. Johnson, deceased, and the proper person to represent his said claim in this honorable Court; and your petitioner, the said Emilie G. Jones, respectfully represents that she is the executrix and sole devisee of the said Thomas P. Jones, deceased, and as such entitled to represent his claim aforesaid before your honorable Court.

And your petitioners further represent that this claim was presented to Congress during the twenty-ninth Congress, as your petitioners believe, for the first time, and that it has been before every Congress since; that it has been reported upon by committees of the said Con-

gresses frequently, and generally favorably; that it has passed one or the other branch of Congress, but never both during the same session; and that the matter is still before the Senate of the United States, in whose archives your petitioners' papers are all filed, and cannot be placed before your honors until an order to that effect can be obtained.

And your petitioners further show unto your honors that the said Walter R. Johnson and Thomas P. Jones were entitled to pay, at the rate of three hundred dollars per month, for the whole time that they served the government under the appointment hereinbefore mentioned, and for whatever other expenses they incurred by reason of, and in the performance of their duties under, said appointment; and to enable them, as the representatives of said parties, to obtain this their right, they pray the assistance of this honorable Court, and so, as in duty bound, they will ever pray, &c.

N. M. JOHNSON.

DISTRICT OF COLUMBIA, }
County of Washington, } ss.

Before the subscriber, a notary public in and for the county aforesaid, in the District of Columbia, personally appeared Nancy M. Johnson, and made oath that the facts stated in the foregoing petition are true to the best of her knowledge and belief.

N. M. JOHNSON.

Sworn to and subscribed before me, this 1st day of August, 1855.
JOHN F. WEBB, *Notary Public*.

The memorial in this case was presented to Congress at the first session of the 29th Congress, and was referred to the Committee of Ways and Means.—(See Journal, page 276, January 20, 1846.) An amendment was offered to the deficiency bill at that session, providing for the payment of the claim, but was rejected.—(Journal, page 610.)

At the same session, May 7, 1846, (Journal, page 766,) the memorial was referred to the Committee on Naval Affairs and subsequently withdrawn, August 10, 1846.—(Journal, page 1299.)

The same session: Memorial referred in the Senate to Committee on Claims, May 11, 1846, (Senate Journal, page 279,) and withdrawn, August 8, 1846.—(Senate Journal, page 508.)

The separate petition of Walter R. Johnson was presented at the same session to the House, and was referred to the Committee on Naval Affairs, March 10, 1846.—(See Journal, page 511.)

30th Congress, first session: The claim was reported favorably upon by the Committee on Naval Affairs, with a bill, which was amended and passed on the 8th of April, 1848.—(See House Journal, page 665.) No action in the Senate.

31st Congress: The claim was referred to the Committee on Claims in the Senate, (see Senate Journal, page 36,) and was reported favorably upon, (see Journal, page 76,) was considered, recommitted to

the committee, reported again with an amendment and passed.—(See pages 602, 604, and 619.) In the House, September 10, 1850, and September 14, 1850, (see Journal, 1438,) the Senate bill was read a second and third time, committed to the Committee of the Whole House, made the order for the next day and nothing was done.

32d Congress: The claim was at the first session referred to the Committee on Claims in the Senate, (see Journal, page 191,) and subsequently, upon leave, withdrawn; nothing was done during the Congress.

33d Congress, first session: The documents were referred to the Committee on Naval Affairs in the Senate and nothing done.—(See Journal, page 57.) At the second session, on the 14th February, 1855, the committee were discharged from further consideration of the claim.

PHILADELPHIA CITY AND COUNTY, ss :

I, Thomas C. Bunting, register for the probate of wills and granting letters of administration in and for the city and county [L. S.] of Philadelphia, in the commonwealth of Pennsylvania, do hereby certify and make known that, on the fourth day of June, in the year of our Lord one thousand eight hundred and fifty-two, letters testamentary on the estate of Walter R. Johnson, deceased, were granted unto Nancy M. Johnson, she having first affirmed well and truly to administer the same.

Given under my hand and seal of office, this ninth day of October, in the year of our Lord one thousand eight hundred and fifty-two.

THOS. C. BUNTING, *Register*.

UNITED STATES OF AMERICA,

Washington County, District of Columbia, to wit :

To all to whom these presents shall come, greeting :

Know ye, that, on the seventeenth day of March, in the year of our Lord one thousand eight hundred and forty-eight, letters testamentary of all and singular the goods, chattels, and credits which were of Thomas P. Jones, late of Washington county, deceased, was, by the orphans' court of Washington county aforesaid, granted and committed unto Emilie G. Jones, of the county and district aforesaid, she having first entered into bond, with approved securities, for the faithful performance of the duties thereof.

Witness William F. Purcell, esq., judge of the orphans' court of Washington county, District of Columbia, this 11th day of [L. S.] February, anno Domini 1857.

Test:

ED. N. ROACH, *Register of Wills*.

NAVY DEPARTMENT, *February* 5, 1857.

SIR: With this you will find the certified copies of papers asked for in your letter of the 3d instant, with the exception of the letter of acceptance of the appointment of Thomas P. Jones, of the 10th of April, 1843, as a member "of a board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers," which does not appear on the files of the department.

Very respectfully, your obedient servant,

J. C. DOBBIN.

W. B. WEBB, Esq., *Attorney for the Executors of*
Dr. Jones and W. R. Johnson, deceased, Washington, D. C.

UNITED STATES NAVY DEPARTMENT,
February 13, 1857.

I hereby certify that the annexed are true copies from the records of this department.

CHAS. W. WELSH,
Chief Clerk.

Be it known that Charles W. Welsh, whose name is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Navy Department of the United States to be affixed, at the city of Washington, this thirteenth day [L. S.] of February in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

J. C. DOBBIN,
Secretary of the Navy.

NAVY DEPARTMENT,
April 28, 1845.

SIR: Your letter of the 14th instant, requesting a settlement of Mr. Charles Reeder's account, for his services as a member of the board for testing inventions to prevent the explosion of steam boilers, was duly received.

On the 31st of January last, in answer to yours of the 24th of that month, enclosing a copy of Mr. Reeder's account, amounting to \$3,185 25, you were informed that the claims of the commissioners had "already been submitted to the chairman of the Committee of Ways and Means in the House of Representatives."

Under the 5th section of the act of March 3, 1843, by virtue of which Mr. Reeder claimed compensation, the report of the board was to have been "laid before Congress at its next session," that is, during the 1st session of the 28th Congress, 1843-'44. The report not having been completed before the appropriation was exhausted is the reason why the accounts were transmitted by the department to Congress at the request of Professor Johnson.

In a communication of Professor Johnson to the Hon William Parmenter, chairman of the Committee on Naval Affairs of the House of Representatives, a copy of which is now on the files of this office, dated January 11, 1845, he states: "At the expiration of four months, when the experiments on explosions were yet in progress and several forms of apparatus not yet tried, the board were informed that the appropriation was exhausted." In the same communication Professor Johnson adds:

"The members (of the board) have recently stated their claims. It remains to be seen whether Congress will recognize them."

Were the appropriations for "contingent not enumerated" adequate to pay this account, to pay one account of *three* claimed would, under the circumstances, seem to be interfering with the legitimate action of Congress, which I must decline doing in this as in every case where the letter of the law has not been complied with.

Mr. Reeder will therefore look to Congress for such remuneration as they may think proper to allow.

I am, respectfully, your obedient servant,

GEORGE BANCROFT.

A. THOMAS SMITH, Esq.,
Washington, D. C.

NAVY DEPARTMENT, *January 17, 1846.*

SIR: Your letter of the 12th instant, directing my attention to a prior communication of the department addressed to A. Thomas Smith, esq., has been duly received.

It appears from the records of the department that the report of the board to which you refer was transmitted to the Senate near the close of the 1st session of the 28th Congress.

The claims of Mr. Reeder, Professor Johnson, and yourself having been referred to Congress, because the department had no funds applicable to their payment, I can see no substantial reason for changing the decision which was communicated in the letter to Mr. Smith.

I am, respectfully, yours,

GEORGE BANCROFT.

Dr. THOMAS P. JONES,
Washington, D. C.

UNITED STATES NAVY DEPARTMENT, *February 5, 1857.*

I hereby certify that the annexed, numbered 1, 2 and 3, are true copies of letters from the records and files of this department.

CHARLES W. WELSH, *Chief Clerk.*

Be it known that Charles W. Welsh, whose name is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Navy Department of the United States to be affixed, at the city of Washington, this fifth day of February, [L. S.] in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

J. C. DOBBIN, *Secretary of the Navy.*

No. 1.

NAVY DEPARTMENT, *March 20, 1843.*

SIR: I invite your attention to the fifth section of the act of Congress, No. 43, approved March 3, 1843, to modify the act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," approved July 7, 1838.

I am desirous of appointing you as one of the three commissioners authorized, and propose a compensation of \$300 per month.

If agreeable to you to accept the duty I will thank you to signify the same to me, and to suggest a plan by which the law may be executed.

The balance in the treasury applicable to this object is about \$4,000.

I am, respectfully, &c.

A. P. UPSHER.

Dr. THOMAS P. JONES,
Washington, D. C.

No. 2.

WASHINGTON, *March 22, 1843.*

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant, expressing a wish to appoint me one of the commissioners under the provisions of the 5th section of the act of Congress "to modify the act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam.'"

It will afford me great pleasure to aid in the performance of the duties of such an appointment, as I believe that I may be enabled thereby to render available the information that I have acquired on a subject to which I have paid considerable attention.

When the appointments are made, I will embrace the earliest opportunity, in concurrence with the gentlemen with whom I may be associated, to suggest a plan by which the law may be most advantageously executed.

I am, sir, very respectfully, your obedient servant,

THOS. P. JONES.

Hon. A. P. UPSHER,

Secretary of the Navy.

No. 3.

NAVY DEPARTMENT, *April 10, 1843.*

SIR: You are hereby appointed a member of the board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers.

Your compensation will be at the rate of three hundred dollars per month, to commence from the date of your acceptance of this appointment.

You are requested to meet the other two examiners, Professor W. R. Johnson and Mr. C. Reeder, at the navy yard, Washington, on Friday, the 14th instant, at noon.

I am, respectfully, your obedient servant,

A. P. UPSHER.

T. P. JONES, M. D., *Washington.*

UNITED STATES NAVY DEPARTMENT, *February 5, 1857.*

I hereby certify that the annexed, numbered 1, 2, 3, and 4, are true copies of letters from the records and files of this department.

C. W. WELSH, *Chief clerk.*

Be it known that Charles W. Welsh, whose name is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Navy Department of the United States to be affixed, at the city of Washington, this fifth day of February, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States, the eighty-first.

J. C. DOBBIN,

Secretary of the Navy.

No. 1.

NAVY DEPARTMENT, *March 20, 1843.*

SIR: I invite your attention to the 5th section of the act of Congress, No. 43, approved March 3, 1843, to modify the act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," approved July 7, 1838.

I am desirous of appointing you as one of the three commissioners authorized, and propose a compensation of \$300 a month to each. If agreeable to you to accept the duty, I will thank you to signify the same to me, and to suggest a plan by which the law may be executed.

The balance in the treasury applicable to this object is about \$4,000.

I am, respectfully, &c.,

A. P. UPSHUR.

Professor Wm. B. JOHNSON,
Philadelphia.

No. 2.

PHILADELPHIA, *March 22, 1843.*

SIR: I have the honor to acknowledge the receipt of your communication of the 20th instant, inviting my attention to the 5th section of an act recently passed in relation to steamboats, &c., &c., signifying a desire to appoint me one of the commissioners under that act. In reply I will state that I will accept with pleasure the duty which you propose, and on the terms mentioned. I have procured a copy of the law in question, and will, as early as practicable, submit my views in relation to a plan on which the law may be executed. Ever since leaving Washington last autumn I have been intently engaged on the analytical experiments on coal, the trials of copper, and the preparation of apparatus and tests, and have only to-day so far completed them as to enable me to go on with the trials at the navy yard. I shall probably reach Washington in a day or two after the receipt of this, and will lose no time in paying my respects to you at the department.

I have the honor to be, &c., &c.,

WALTER R. JOHNSON.

Hon. A. P. UPSHUR,
Secretary of the Navy.

No. 3.

NAVY DEPARTMENT, *April 10, 1843.*

SIR: You are hereby appointed a member of the board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers.

Your compensation will be at the rate of three hundred dollars per month, to commence from the date of your acceptance of this appointment.

You are requested to meet the other two examiners, Dr. T. P. Jones and Mr. C. Reeder, at the navy yard, Washington, on Friday, the 14th instant, at noon.

I am, respectfully, your obedient servant,

A. P. UPSHUR.

Professor W. R. JOHNSON,
Of Philadelphia.

No. 4.

NAVY YARD, *Washington, April 14, 1843.*

SIR: Your letter of appointment to me as one of the examiners to make experiments on inventions and plans to prevent the explosion of steam boilers did not reach me until this morning, owing to its having been deposited in the city post office instead of being forwarded to this place. This may account for any seeming delay on my part in answering the same.

I have now to signify my acceptance of the said appointment, and to state that I shall be ready to meet the other commissioners this day at noon.

I remain, very respectfully, your obedient servant,

WALTER R. JOHNSON.

Hon. A. P. UPSHUR,
Secretary of the Navy.

NAVY DEPARTMENT,
December 24, 1857.

SIR: I have received your letter of the 21st instant, in which you inquire "whether any notice in writing was given" to Professors Johnson and Jones, "or either of them, about the month of August, 1843, that the appropriation for their payment was exhausted," &c.

No letter or written notice, such as you refer to, appears to have been addressed by the department in August, 1843, to either of the persons named; but letters, dated respectively November 13, 1844, and January 27, 1845, were addressed by Mr. Secretary Mason to Professor Johnson, explaining the reason why the professor's account or claim for compensation had not been adjusted. Copies of these letters are herewith enclosed.

I am, respectfully, your obedient servant,

ISAAC TOUCEY.

JOHN D. MCPHERSON, Esq.,
Deputy Solicitor Court of Claims, Washington, D. C.

NAVY DEPARTMENT,
November 13, 1844.

SIR: I have received your letter of the 9th instant, asking payment of the account, which was approved in July last, for services and expenses during your researches on coal.

The department has no funds at command, under the head of "Experiments," but your claim will be included in the estimate.

I am, very respectfully, yours,

J. Y. MASON.

Professor W. R. JOHNSON, *Philadelphia.*

NAVY DEPARTMENT,
January 27, 1845.

SIR: Your communication of the 14th instant is received, with a copy of your letter to the Hon. William Parmenter, chairman of the Committee on Naval Affairs, House of Representatives. In your letter to Mr. Parmenter you say: "I confess I know not what experiments have been made in addition to the above to absorb this sum. Others may possibly understand the matter more fully, and why my outstanding claim on the subject of coal is not discharged."

In your connexions with the department, your duties have been confined to particular objects, and not to keeping the account of the expenditures. It is not, therefore, to be wondered at, that you do not know what experiments have been authorized to absorb the sum appropriated for the purpose of experiments. There were many others; and while it is hardly possible to trace the exact amount expended, and the objects, from the fact that the expenditures were charged to the head of "Increase, Repairs," &c., yet I am satisfied that the sum appropriated has not only been expended, but exceeded; and this is the reason why your account for experiments on coal has not been paid, as you have been informed. Your claim for compensation for services, with Messrs. Jones and Reeder, has been made known to me more recently, and has not been paid for the same reason.

A statement of the moneys paid to you by the navy agent at Washington has been furnished to the chairman of the Committee of Ways and Means, at his request; but it is not possible, without a careful examination of every voucher, to determine which of these payments were for your own services, and which for the labor of others, or for materials. For the reasons already stated, this would be attended with great difficulty. I supposed that you could more readily explain it, and therefore I make you this communication. You will remember that I mentioned the subject to you when you were last at the department.

I am, respectfully, yours,

J. Y. MASON.

Professor WALTER R. JOHNSON, *Philadelphia.*

TREASURY DEPARTMENT,
Fourth Auditor's Office, February 19, 1857.

SIR: A request made by the Court of Claims to the department, to furnish a certified copy of the account of all the expenditures of the "board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers," appointed by the Secretary of the Navy, under an act of Congress of March 3, 1843, together with any other information in the department tending to elucidate a claim of Nancy M. Johnson and others before said Court, having been referred to this office, I have the honor to state that the said board never rendered to this office any account of its expenditures, but that some vouchers for articles purchased by said board, approved by the Secretary of the Navy, and paid by the navy agent in this city, have been found among the settled accounts of the said agent, and an abstract of them is herewith transmitted. These are all the vouchers that have been discovered which indicate upon their face that they were for expenditures by the said board. There is no other information in this office, that I am aware of, which would elucidate the said claim, except, perhaps, the vouchers for payments made to the members of the said board for their services, of which also I have included in the abstract I transmit.

The papers referred to me are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,
A. O. DAYTON.

HON. JAMES GUTHRIE,
Secretary of the Treasury.

Abstract of vouchers in the office of the Fourth Auditor of the Treasury for expenditures made by the "board of examiners to make experimental trials of inventions and plans to prevent the explosion of steam boilers," appointed by the Secretary of the Navy, under an act of Congress of March 3, 1843, and of all the vouchers on file in said office for payments made to the members of the said board for their services.

1843.

April 10—John Holton, for copper	\$15 96	
May 1—Campbell & Coyle, for iron plates	5 66	
May 24—A. & C. Reeder, for steam boiler	409 90	
		\$431 52
June 14—W. R. Johnson, for services April 14 to June 14, 1843	600 00	
June 23—Chas. Reeder, for services two months ..	600 00	
July 15—T. P. Jones, for services April 14, to July 14, 1843	900 00	
July 14—W. R. Johnson, for services June 15 to July 14, 1843	300 00	

1843.

Aug. 31—T. P. Jones, for services July 14 to Aug.	
14, 1843	\$300 00
Aug. 15—W. R. Johnson, for services July 14 to	
Aug. 14, 1843	300 00
Oct. 18—C. Reeder, for services two months	600 00
	—————\$3,600 00
	4,031 52

A. O. DAYTON.

TREASURY DEPARTMENT,

Fourth Auditor's Office, February 19, 1857.

IN THE COURT OF CLAIMS.

WALTER R. JOHNSON'S ADMINISTRATRIX AND THOMAS P. JONES'
EXECUTRIX *vs.* THE UNITED STATES.

SCARBURGH, J., delivered the opinion of the Court.

By the second section of the joint resolution approved August 31, A. D. 1842, it was provided "that the Secretary of the Navy be, and he is hereby, authorized to make such experimental trial of the several inventions of Thomas M. Easton, Ethan Campbell, Aaron Quinby, or either of them, or of other persons, to prevent the explosion of steam boilers, as may be necessary to test their value and utility as applicable for the purposes aforesaid, to the steamships of the United States; and the sum of six thousand dollars is hereby appropriated therefor out of the fund" appropriated by the act of the eleventh of September, eighteen hundred and forty-one, for experiments connected with the naval service of the United States.—(5 Stat. at L., page 585, No. 12.)

By the fifth section of the act of Congress approved March 3, A. D. 1843, chapter 94, it is provided "that in execution of the authority vested in him by the second section of the joint resolution 'authorizing experiments to be made for the purpose of testing Samuel Colt's submarine battery, and for other purposes,' approved August thirty-first, one thousand eight hundred and forty-two, the Secretary of the Navy shall appoint a board of examiners, consisting of three persons of thorough knowledge as to the structure and use of the steam engine, whose duty it shall be to make experimental trial of such inventions and plans designed to prevent the explosion of steam boilers and collapsing of flues as they may deem worthy of examination, and report the result of their experiments, with an expression of their opinion as to the relative merits and efficacy of such inventions and plans, which report the Secretary shall cause to be laid before Congress at its next session. It shall also be the duty of said examiners to examine and report the relative strength of copper

and iron boilers of equal thickness, and what amount of steam to the square inch each, when sound, is capable of working with safety; and whether hydrostatic pressure, or what other plan, is best for testing the strength of boilers under the inspection laws; and what limitations as to the force or pressure of steam to the square inch, in proportion to the ascertained capacity of a boiler to resist, it would be proper to establish by law for the more certain prevention of explosions."—(5 Stat. at L., page 627.)

On the 10th day of April, A. D. 1843, Walter R. Johnson and Thomas P. Jones, respectively, were appointed, by the Secretary of the Navy, members of the board of examiners authorized by the last recited act, and on the 14th day of April, A. D. 1843, they, severally, accepted their appointments and entered upon the discharge of their duties. The compensation of each of them was fixed by the Secretary of the Navy at the rate of three hundred dollars per month, to commence from the date of their respective appointments.

The petitioners allege that the above named Thomas P. Jones and Walter R. Johnson continued in the prosecution of their duties until the 30th day of March, A. D. 1844. It does not expressly appear from the evidence how long they were employed; but, in obedience to a resolution of the House of Representatives, passed on the 18th of May, A. D. 1844, the Secretary of the Navy, on the 22d of May, A. D. 1844, reported to Congress that the examiners had been urged, since the commencement of that session of Congress, to present their report, and that he believed that they had used all diligence to bring their examinations to a close. The report was made to Congress on the 17th day of June, A. D. 1844. By that report it appears that on the 6th day of January, A. D. 1844, they were still engaged in their work. Now, it is self-evident, we think, "that a minute and careful computation, and a strict comparison of all the results," was "indispensable to give value to researches such as were consigned to" these examiners. It is also indubitable that, after the conclusion of their experiments, they must have been engaged a considerable time, "either in making out descriptions, procuring the necessary drawings, or making the calculations and tabular statements of their various observations." Their report, which was the last duty required of them, was not ready on the 22d day of May, A. D. 1844. From these facts we think it a just and reasonable conclusion that the decedents, Johnson and Jones, were engaged for the full period which has been alleged. They were, therefore, employed from the 14th day of April, A. D. 1843, till the 30th of March, A. D. 1844, a period of eleven and a half months.

The examiners received compensation for their services up to the 14th day of August, A. D. 1843, and the appropriation made by the joint resolution of the 31st of August, A. D. 1842, being then exhausted, no further compensation was afterwards made to them.

The petitioners claim that their decedents respectively were entitled to compensation for the whole time they were engaged in and about the objects contemplated by the act of March 3, A. D. 1843. But it has been urged that the power of the Secretary of the Navy

to employ them was merely commensurate with the appropriation made by the joint resolution of August 31, A. D. 1842, and that their right to compensation and authority to proceed with their work ceased as soon as the appropriation was exhausted.

By the sixth section of the act of Congress approved May 1, A. D. 1820, it is provided as follows: "No contract shall hereafter be made by the Secretary of State, or of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment."—(3 Stat. at L., page 568.)

The examiners were either officers or employés. If they were officers, then this is not a case of contract, and consequently the act of 1820 has no application to it. Their office, too, being created for a special purpose, would continue until that purpose was accomplished. Moreover, as their salaries were not prescribed by the statute, they were of necessity left to the sound discretion of the appointing officer, the Secretary of the Navy, and would continue during the continuance of the examiners in office. The last duty required of them by the act of 1843 was to make report to the Secretary of the Navy. This duty was performed on the 17th day of June, A. D. 1844. If, therefore, the examiners were officers, they continued in office and were entitled to their salaries till the day last mentioned. But we do not adopt this view, nor do the petitioners claim for their decedents the compensation to which they would be entitled under it.

We are of the opinion that the examiners were employés and not officers. Under the act of 1843 the Secretary of the Navy was required to "*appoint a board of examiners.*" The word "appoint" in that act is used in the sense of *employ*, and means merely *to procure by contract or to contract with*. Hence it is obvious that there was a contract between the United States and the examiners, and that it was made by the Secretary of the Navy "under a law authorizing the same." It was therefore valid under the act of 1820. It is not pretended that the compensation agreed upon between the parties was unreasonable, or that the examiners, Johnson and Jones, did not do the work prescribed by the act of 1843 and required of them by the contract. Our opinion is that, upon performing the duty required of them, they become entitled to full compensation therefor, notwithstanding it might exceed the appropriation which had been made.

We shall therefore report a bill in favor of each of the petitioners for the sum of *two thousand two hundred and fifty dollars*.

